



Matthew H. Mead, Governor

# Department of Environmental Quality

*To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.*



John Corra, Director

October 10, 2012

Sandra Spence  
USEPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

Dear Ms. Spence,

The Wyoming Department of Environmental Quality/Water Quality Division (WDEQ/WQD) has reviewed your comments on the draft *Categorical Use Attainability Analysis for Recreation*. We appreciate the Environmental Protection Agency's (EPA's) feedback on the draft Use Attainability Analysis (UAA) and believe we have addressed EPA's comments.

One of EPA's main concerns with draft UAA was the connection of the UAA to the six removal factors outlined at 40 CFR § 131.10(g). EPA identified that it has "approved removal of primary contact as a designated use based on 40 CFR § 131.10(g)(2): 'natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharges of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met.'" As such, EPA suggested that WDEQ/WQD could improve the draft UAA by "incorporating additional lines of evidence, either in the text of the UAA or as additional GIS layers, such as precipitation data, evaporation rate, flow or depth, to strengthen the connection to factor 2."

During a meeting on June 26, 2012 with you and other EPA staff (Tonya Fish and Tony Selle), we discussed specific data sets that could be incorporated into the UAA to ensure that removal of the primary contact recreation use was based on 40 CFR § 131.10(g)(2). EPA suggested that *NHDPlus* may be an appropriate data set to address flow since it contained modeled mean annual flow as well as additional attributes that can be used as a surrogate for flow such as stream order and watershed area. Based on these suggestions, WDEQ/WQD has developed an approach to identify waters of the state with insufficient flow to support primary contact recreation using *NHDPlus*.

In order to identify waters in Wyoming with insufficient flow to support primary contact recreation, WDEQ/WQD evaluated the relationship between mean annual flow and mean recreation season flow at USGS gage sites. Further, since EPA has approved removal of primary contact recreation use based on depth in Regions 6 and 7, WDEQ/WQD evaluated mean recreation season depth at USGS gage sites identified as having insufficient flows to support primary contact recreation. Mean recreation season depths at these sites were well below the 1.5 ft and 0.5 meters (1.6 ft) depths used in other states to remove the primary contact recreation use.

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Since WDEQ/WQD's analysis reflects both flow and depth over the entire recreation season and is based on estimates of mean annual flow taken over multiple years, selection of sites within insufficient flow will be generally be more representative of conditions during the primary recreation season than a site-specific UAA conducted at one point in time during one flow condition.

During the same June meeting, WDEQ/WQD also addressed some of EPA's other comments on the draft UAA. These included questions about which category of waters which will be considered as part of the UAA, recommendation that the state perform a sensitivity analysis on the various layers to determine any redundancies, ensuring that Wyoming Surface Water Quality Standards (Chapter 1) identify where the recreation use classifications for each waterbody can be found, access to the supporting analysis for the UAA, some additional rationale for buffer distances and weightings, and extension of the public comment period.

WDEQ/WQD's revised approach now clearly identifies the category of waters as those with insufficient flows to support primary contact recreation (i.e. low flow streams). Further, while the proposed "low flow" approach adds some complexity to the UAA, the other components of the model that identify streams that support primary contact recreation can likely be simplified. In order to clearly identify the recreational use designation for each water in the state, WDEQ/WQD is proposing changes to Chapter 1, Sections 4 and 27 as part of the current triennial review. WDEQ/WQD will also provide some additional details in the UAA to address some of EPA's other comments and will provide sufficient time and opportunities for the public to consider the UAA.

Because of the time and effort required to apply such a significant change to the entire UAA, WDEQ/WQD is submitting the attached "low flow" approach to EPA for consideration. WDEQ/WQD would appreciate EPA's feedback on whether this approach will fulfill the regulatory requirements at 40 § CFR 131.10(g). Once EPA confirms that this approach will fulfill the regulatory requirements at 40 § CFR 131.10(g)(2), WDEQ/WQD will incorporate it into the UAA and proceed with the remainder of the UAA process.

If you have any questions about the document, data sets, etc., please feel free to contact me at 307-777-7079.

Sincerely,



Lindsay Patterson  
Surface Water Quality Standards

LP/rm/12-0929

Enclosure: Categorical Use Attainability for Recreation, Identification of Low Flow Streams

cc: David Waterstreet, WDEQ/WQD  
John Wagner, WDEQ/WQD  
Luke Esch, Assistant Attorney General